UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,307	09/26/2001	James T. Bodner	1662-41200 JMH (P01-3707)	9916

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EXAMINER
AILES, BENJAMIN A

ART UNIT	PAPER NUMBER
2142	

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/964,307	BODNER ET AL.
	Examiner	Art Unit	
	Benjamin A. Ailes	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>10 April 2006 and 03 August 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,5-7,11-14,18-20 and 23</u> is/are pending in the application.

    4a) Of the above claim(s) <u>23</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,5-7,11-14 and 18-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This action is in response to the amendment dated April 19, 2006 and the

response to the restriction requirement dated August 3, 2006.

2.   Claim 23 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as

being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 3 August 2006. Claims 1, 5-7,

11-14 and 18-20 remain pending.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

4.   Claims 1, 5-7, 11-14 and 18-20 are rejected under 35 U.S.C. 102(e) as being

anticipated by Suorsa (US 2004/0226010 A1).

5.   Regarding claim 1, Suorsa discloses an automatic method of configuring a server

in a system including a plurality of servers, comprising:

    (a) requesting configuration data by the server to be configured (p. 6, para. 0048,

    ll. 8-11, Suorsa discloses a server agent sending a request for configuration

    information.);

(b) without human intervention, identifying from among a plurality of servers,

each of the plurality of servers having configuration data that can be used to

configure another server, which of said plurality of servers includes configuration

data suitable for use by the server to be configured (p. 6, para. 0048, ll. 4-8,

Suorsa discloses the server agent automatically determining where to retrieve

necessary information);

(c) automatically retrieving the suitable configuration data from said identified

server (p. 6, para. 0048, ll. 8-11, Suorsa discloses the server agent automatically

obtaining the necessary information.); and

(d) providing the retrieved configuration data to the server to be configured (p. 6,

para. 0048, ll. 4-11, Suorsa discloses the configuration data being provided to the

requesting server).

6.   Regarding claim 5, Suorsa discloses the method wherein (a) includes providing a

server type value with said request for configuration data (p. 7, para. 0054, ll. 10-14,

Suorsa discloses the method of assigning a version value to the server).

7.   Regarding claim 6, Suorsa discloses the method further including using said

server type value to identify which of said other servers includes configuration data

suitable for use by the server being configured (p. 7, para. 0054, ll. 3-7, Suorsa

discloses the use of the version value in order to determine how recent the configuration

data is.).

8.   Claim 7 contains similar subject matter and is rejected under the same rationale

as claim 1.

9.   Regarding claim 11, Suorsa discloses the use of a plurality of servers having

multiple modules including configuration data saved thereto (p. 5, paras. 0041-0042).

10.   Regarding claim 12, Suorsa discloses the computer system wherein said request

includes the type of server to be configured and said first chassis communication

module uses said type of server to retrieve configuration data suitable for the installed

server (p. 7, para. 0058, Suorsa discloses the system wherein different servers being of

different types and having different roles and therefore requiring different types of

configuration data. The configuration data obtained and installed is based on what type

of server is being configured.).

11.   Regarding claim 13, Suorsa discloses the computer system wherein said first

chassis communication module finds another of said first plurality of servers that is of

the same type as the installed server and retrieves said configuration data

corresponding to such matching other server (p. 7, para. 0059, ll. 7-13, Suorsa

discloses the servers being of different types and therefore requiring different types of

configuration data. The server to be configured locates a similar server and obtains and

installs the appropriate configuration data.).

12.   Claim 14 contains similar subject matter and is rejected under the same rationale

as claim 1.

13.   Claim 18 contains similar subject matter and is rejected under the same rationale

as claim 11.

14.   Claim 19 contains similar subject matter and is rejected under the same rationale

as claim 12.

15.   Claim 20 contains similar subject matter and is rejected under the same rationale

as claim 13.

Response to Arguments

16.   Applicant's arguments filed 10 April 2006 have been fully considered but they are

not persuasive. Applicant argues with respect to independent claim 1 that Suorsa does

not teach "identifying from among a plurality of servers, each of the plurality of servers

having configuration data that can be used to configure another server, which of said

plurality of servers includes configuration data suitable for use by the server to be

configured" because claim 1 requires that each of a plurality of servers has

configuration data and further requires identifying which server has suitable

configuration data. Examiner respectfully disagrees because what is reasonably

understood broadly of claim 1 is that it is determined from among a plurality of servers,

which of the plurality of servers actually have configuration data that can be used and

does not require that each server have configuration data. Regarding the applied prior

art, Suorsa teaches on page 6, paragraph 0048, lines 4-8, the determination of a server

that provides configuration data as required and therefore the limitation that is read as

being able to determine at least one server in which to retrieve configuration data from

is met. Suorsa teaches the determination of the location of a central database and

retrieves the necessary configuration data. Read broadly, a server is any device

connected to a network that is capable of providing data of any sort to other devices (i.e.

clients). In the present embodiment taught by Suorsa, the server is the central

database and the configuration data is provided from this location. The claim as written

requires the acquisition only from at least one other server. Part (c) recites,

"automatically retrieving the suitable configuration data from said identified server".

Currently, it is unclear whether configuration data is retrieved from an identified plurality

of servers (part b) or just one identified server (part c). For examination purposes, the

examiner has assumed in view of part (c) that configuration need only be retrieved from

one location, at least one server. Therefore, in view of the above rejection and

response to argument, independent claims 1, 7 and 14 and the claims which depend on

1, 7 and 14 are not deemed patentable over the prior art of record.

Conclusion

17.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

18.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Baker et al. (US 7,062,562 B1) teaches a method and apparatus for content server

selection, wherein a server that can best provide content is selected from a

plurality of servers.

Pitkin et al. (US 5,341,477) teaches a broker for computer network server selection.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Benjamin A. Ailes whose telephone number is (571)272-

3899. The examiner can normally be reached on M-F 6:30-4, IFP Work Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew Caldwell can be reached on (571)272-3868. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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BEATRIZ PRIETO
PRIMARY EXAMINER
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